

REFERENCE TITLE: revised uniform anatomical gift act

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1099

Introduced by
Senator Allen

AN ACT

AMENDING SECTION 28-3006, ARIZONA REVISED STATUTES; REPEALING TITLE 36, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 3; RELATING TO THE REVISED UNIFORM ANATOMICAL GIFT ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-3006, Arizona Revised Statutes, is amended to
3 read:

4 28-3006. Driver license and nonoperating identification license
5 applications: organ donation preference:
6 reimbursement

7 A. The director shall establish procedures:

8 1. To allow a person applying for a driver license, permit or
9 nonoperating identification license pursuant to this chapter to indicate
10 during the application process the person's preference to be an organ donor.

11 2. For the release of name and address information contained in the
12 driving record of a person who indicates a preference to be an organ donor if
13 the release is for the purpose of being registered in the ~~anatomical gift~~
14 ~~DONOR~~ registry maintained pursuant to section ~~36-842.01~~ 36-859.

15 B. The department shall not implement this section unless the organ
16 procurement organization that is located in this state and that meets the
17 requirements of section 371 of the public health service act (58 Stat. 682;
18 42 United States Code section 273) provides adequate funding to the
19 department to cover the costs the department will incur in implementing this
20 section.

21 Sec. 2. Repeal

22 Title 36, chapter 7, article 3, Arizona Revised Statutes, is repealed.

23 Sec. 3. Title 36, chapter 7, Arizona Revised Statutes, is amended by
24 adding a new article 3, to read:

25 ARTICLE 3. REVISED UNIFORM ANATOMICAL GIFT ACT

26 36-841. Definitions

27 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

28 1. "ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST EIGHTEEN YEARS OF AGE.

29 2. "AGENT" MEANS AN INDIVIDUAL WHO IS EITHER:

30 (a) AUTHORIZED TO MAKE HEALTH CARE DECISIONS ON THE PRINCIPAL'S BEHALF
31 PURSUANT TO A HEALTH CARE POWER OF ATTORNEY.

32 (b) EXPRESSLY AUTHORIZED TO MAKE AN ANATOMICAL GIFT ON THE PRINCIPAL'S
33 BEHALF PURSUANT TO ANY OTHER RECORD SIGNED BY THE PRINCIPAL.

34 3. "ANATOMICAL GIFT" MEANS A DONATION OF ALL OR PART OF A HUMAN BODY
35 TO TAKE EFFECT AFTER THE DONOR'S DEATH FOR THE PURPOSE OF TRANSPLANTATION,
36 THERAPY, RESEARCH OR EDUCATION.

37 4. "DECEDENT" MEANS A DECEASED INDIVIDUAL WHOSE BODY OR PART IS OR MAY
38 BE THE SOURCE OF AN ANATOMICAL GIFT. DECEDENT INCLUDES A STILLBORN INFANT
39 AND, SUBJECT TO RESTRICTIONS IMPOSED BY ANY OTHER LAW, A FETUS.

40 5. "DISINTERESTED WITNESS" MEANS A WITNESS OTHER THAN THE SPOUSE,
41 CHILD, PARENT, SIBLING, GRANDCHILD, GRANDPARENT OR GUARDIAN OF THE INDIVIDUAL
42 WHO MAKES, AMENDS, REVOKES OR REFUSES TO MAKE AN ANATOMICAL GIFT, OR ANOTHER
43 ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE INDIVIDUAL.
44 DISINTERESTED WITNESS DOES NOT INCLUDE A PERSON TO WHICH AN ANATOMICAL GIFT
45 COULD PASS PURSUANT TO SECTION 36-850.

1 6. "DOCUMENT OF GIFT" MEANS A DONOR CARD OR OTHER RECORD USED TO MAKE
2 AN ANATOMICAL GIFT. DOCUMENT OF GIFT INCLUDES A STATEMENT OR SYMBOL ON A
3 DRIVER LICENSE, IDENTIFICATION CARD OR DONOR REGISTRY.

4 7. "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE SUBJECT OF AN
5 ANATOMICAL GIFT.

6 8. "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS OF
7 ANATOMICAL GIFTS AND AMENDMENTS TO OR REVOCATIONS OF ANATOMICAL GIFTS.

8 9. "DRIVER LICENSE" MEANS A LICENSE OR PERMIT ISSUED PURSUANT TO TITLE
9 28 TO OPERATE A VEHICLE, WHETHER OR NOT CONDITIONS ARE ATTACHED TO THE
10 LICENSE OR PERMIT.

11 10. "EYE BANK" MEANS A PERSON THAT IS LICENSED, ACCREDITED OR REGULATED
12 UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING,
13 PROCESSING, STORAGE OR DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES.

14 11. "GUARDIAN" MEANS A PERSON WHO IS APPOINTED BY A COURT TO MAKE
15 DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH OR WELFARE OF AN
16 INDIVIDUAL. GUARDIAN DOES NOT INCLUDE A GUARDIAN AD LITEM.

17 12. "HOSPITAL" MEANS A FACILITY THAT IS LICENSED AS A HOSPITAL UNDER
18 THE LAWS OF ANY STATE OR THAT IS OPERATED AS A HOSPITAL BY THE UNITED STATES,
19 A STATE OR A SUBDIVISION OF A STATE.

20 13. "IDENTIFICATION CARD" MEANS AN IDENTIFICATION CARD ISSUED BY THE
21 MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION.

22 14. "KNOW" MEANS TO HAVE ACTUAL KNOWLEDGE.

23 15. "MINOR" MEANS AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE.

24 16. "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON DESIGNATED BY THE
25 SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS AN
26 ORGAN PROCUREMENT ORGANIZATION.

27 17. "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT BEEN
28 TERMINATED.

29 18. "PART" MEANS AN ORGAN, EYE OR TISSUE OF A HUMAN BEING. PART DOES
30 NOT INCLUDE THE WHOLE BODY.

31 19. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,
32 TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE,
33 PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR
34 INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

35 20. "PHYSICIAN" MEANS AN INDIVIDUAL AUTHORIZED TO PRACTICE MEDICINE OR
36 OSTEOPATHY UNDER THE LAWS OF ANY STATE.

37 21. "PRINCIPAL" MEANS A PERSON WHO IS THE SUBJECT OF A HEALTH CARE
38 POWER OF ATTORNEY.

39 22. "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, ORGAN PROCUREMENT
40 ORGANIZATION OR TISSUE BANK.

41 23. "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD OR NEAR DEATH
42 AND WHO HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION TO HAVE A PART THAT
43 COULD BE MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH OR
44 EDUCATION. PROSPECTIVE DONOR DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A
45 REFUSAL.

1 24. "REASONABLY AVAILABLE" MEANS A PERSON WHO IS ABLE TO BE CONTACTED
2 BY A PROCUREMENT ORGANIZATION WITHOUT UNDUE EFFORT AND WHO IS WILLING AND
3 ABLE TO ACT IN A TIMELY MANNER CONSISTENT WITH EXISTING MEDICAL CRITERIA
4 NECESSARY FOR THE MAKING OF AN ANATOMICAL GIFT.

5 25. "RECIPIENT" MEANS AN INDIVIDUAL INTO WHOSE BODY A DECEDENT'S PART
6 HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.

7 26. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM
8 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN
9 PERCEIVABLE FORM.

10 27. "REFUSAL" MEANS A RECORD CREATED PURSUANT TO SECTION 36-846 THAT
11 EXPRESSLY STATES AN INTENT TO BAR OTHER PERSONS FROM MAKING AN ANATOMICAL
12 GIFT OF AN INDIVIDUAL'S BODY OR PART.

13 28. "SIGN", WITH RESPECT TO THE PRESENT INTENT TO AUTHENTICATE OR ADOPT
14 A RECORD, MEANS EITHER:

15 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL.

16 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC
17 SYMBOL, SOUND OR PROCESS.

18 29. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
19 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS OR ANY TERRITORY OR
20 INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

21 30. "TECHNICIAN" MEANS AN INDIVIDUAL WHO IS DETERMINED TO BE QUALIFIED
22 TO REMOVE OR PROCESS PARTS BY AN APPROPRIATE ORGANIZATION THAT IS LICENSED,
23 ACCREDITED OR REGULATED UNDER FEDERAL OR STATE LAW. TECHNICIAN INCLUDES AN
24 ENUCLEATOR.

25 31. "TISSUE" MEANS A PORTION OF THE HUMAN BODY OTHER THAN AN ORGAN OR
26 AN EYE. TISSUE DOES NOT INCLUDE BLOOD UNLESS THE BLOOD IS DONATED FOR THE
27 PURPOSE OF RESEARCH OR EDUCATION.

28 32. "TISSUE BANK" MEANS A PERSON THAT IS LICENSED, ACCREDITED OR
29 REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING,
30 TESTING, PROCESSING, STORAGE OR DISTRIBUTION OF TISSUE.

31 33. "TRANSPLANT HOSPITAL" MEANS A HOSPITAL THAT FURNISHES ORGAN
32 TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY SERVICES REQUIRED FOR
33 THE CARE OF TRANSPLANT PATIENTS.

34 36-842. Applicability

35 THIS ARTICLE APPLIES TO AN ANATOMICAL GIFT OR AMENDMENT TO, REVOCATION
36 OF OR REFUSAL TO MAKE AN ANATOMICAL GIFT, WHENEVER MADE.

37 36-843. Who may make an anatomical gift before donor's death

38 SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, AN ANATOMICAL GIFT MAY
39 BE MADE DURING THE LIFE OF THE DONOR FOR THE PURPOSE OF TRANSPLANTATION,
40 THERAPY, RESEARCH OR EDUCATION IN THE MANNER PROVIDED IN SECTION 36-844 BY:

41 1. THE DONOR, IF THE DONOR IS AN ADULT OR IS A MINOR WHO IS EITHER:

42 (a) EMANCIPATED.

43 (b) AUTHORIZED UNDER STATE LAW TO APPLY FOR A DRIVER LICENSE BECAUSE
44 THE DONOR IS AT LEAST THE YOUNGEST AGE AT WHICH AN INDIVIDUAL MAY APPLY FOR
45 ANY TYPE OF DRIVER LICENSE.

1 2. AN AGENT OF THE DONOR, UNLESS THE POWER OF ATTORNEY FOR HEALTH CARE
2 OR OTHER RECORD PROHIBITS THE AGENT FROM MAKING AN ANATOMICAL GIFT.

3 3. IF THE DONOR IS AN UNEMANCIPATED MINOR, A PARENT OF THE DONOR.

4 4. THE DONOR'S GUARDIAN.

5 36-844. Manner of making anatomical gift before donor's death

6 A. A DONOR MAY MAKE AN ANATOMICAL GIFT:

7 1. BY AUTHORIZING A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS
8 MADE AN ANATOMICAL GIFT TO BE IMPRINTED ON THE DONOR'S DRIVER LICENSE OR
9 IDENTIFICATION CARD.

10 2. IN A WILL.

11 3. DURING A TERMINAL ILLNESS OR INJURY OF THE DONOR BY ANY FORM OF
12 COMMUNICATION THAT IS ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM
13 IS A DISINTERESTED WITNESS.

14 4. AS PROVIDED IN SUBSECTION B OF THIS SECTION.

15 B. A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT
16 PURSUANT TO SECTION 36-843 MAY MAKE A GIFT BY A DONOR CARD OR OTHER RECORD
17 SIGNED BY THE DONOR OR OTHER PERSON MAKING THE GIFT OR BY AUTHORIZING THAT A
18 STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE AN ANATOMICAL GIFT BE
19 INCLUDED ON A DONOR REGISTRY. IF THE DONOR OR OTHER PERSON IS PHYSICALLY
20 UNABLE TO SIGN A RECORD, THE RECORD MAY BE SIGNED BY ANOTHER INDIVIDUAL AT
21 THE DIRECTION OF THE DONOR OR THE OTHER PERSON AND MUST:

22 1. BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A
23 DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE
24 OTHER PERSON.

25 2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN
26 PARAGRAPH 1 OF THIS SUBSECTION.

27 C. REVOCATION, SUSPENSION, EXPIRATION OR CANCELLATION OF A DRIVER
28 LICENSE OR AN IDENTIFICATION CARD ON WHICH AN ANATOMICAL GIFT IS INDICATED
29 DOES NOT INVALIDATE THE GIFT.

30 D. AN ANATOMICAL GIFT MADE BY WILL TAKES EFFECT ON THE DONOR'S DEATH
31 WHETHER OR NOT THE WILL IS PROBATED. INVALIDATION OF THE WILL AFTER THE
32 DONOR'S DEATH DOES NOT INVALIDATE THE GIFT.

33 36-845. Amending or revoking anatomical gift before donor's
34 death

35 A. SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, A DONOR OR OTHER
36 PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 MAY
37 AMEND OR REVOKE AN ANATOMICAL GIFT BY:

38 1. A RECORD SIGNED BY EITHER:

39 (a) THE DONOR.

40 (b) THE OTHER PERSON.

41 (c) SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION,
42 ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE DONOR OR THE OTHER PERSON
43 IF THE DONOR OR OTHER PERSON IS PHYSICALLY UNABLE TO SIGN.

1 2. A LATER-EXECUTED DOCUMENT OF GIFT THAT AMENDS OR REVOKES A PREVIOUS
2 ANATOMICAL GIFT OR PORTION OF AN ANATOMICAL GIFT, EITHER EXPRESSLY OR BY
3 INCONSISTENCY.

4 B. A RECORD SIGNED PURSUANT TO SUBSECTION A, PARAGRAPH 1, SUBDIVISION
5 (c) MUST:

6 1. BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A
7 DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE
8 OTHER PERSON.

9 2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PRESCRIBED IN
10 PARAGRAPH 1 OF THIS SUBSECTION.

11 C. SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, A DONOR OR OTHER
12 PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 MAY
13 REVOKE AN ANATOMICAL GIFT BY THE DESTRUCTION OR CANCELLATION OF THE DOCUMENT
14 OF GIFT, OR THE PORTION OF THE DOCUMENT OF GIFT USED TO MAKE THE GIFT, WITH
15 THE INTENT TO REVOKE THE GIFT.

16 D. A DONOR MAY AMEND OR REVOKE AN ANATOMICAL GIFT THAT WAS NOT MADE IN
17 A WILL BY ANY FORM OF COMMUNICATION DURING A TERMINAL ILLNESS OR INJURY THAT
18 IS ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED
19 WITNESS.

20 E. A DONOR WHO MAKES AN ANATOMICAL GIFT IN A WILL MAY AMEND OR REVOKE
21 THE GIFT IN THE MANNER PROVIDED FOR AMENDMENT OR REVOCATION OF WILLS OR AS
22 PRESCRIBED IN SUBSECTION A OF THIS SECTION.

23 36-846. Refusal to make anatomical gift; effect of refusal

24 A. AN INDIVIDUAL MAY REFUSE TO MAKE AN ANATOMICAL GIFT OF THE
25 INDIVIDUAL'S BODY OR PART BY:

26 1. A RECORD SIGNED BY EITHER:

27 (a) THE INDIVIDUAL.

28 (b) SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION,
29 ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE INDIVIDUAL IF THE
30 INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN.

31 2. THE INDIVIDUAL'S WILL, WHETHER OR NOT THE WILL IS ADMITTED TO
32 PROBATE OR INVALIDATED AFTER THE INDIVIDUAL'S DEATH.

33 3. ANY FORM OF COMMUNICATION MADE BY THE INDIVIDUAL DURING THE
34 INDIVIDUAL'S TERMINAL ILLNESS OR INJURY THAT IS ADDRESSED TO AT LEAST TWO
35 ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.

36 B. A RECORD SIGNED PURSUANT TO SUBSECTION A, PARAGRAPH 1, SUBDIVISION
37 (b) OF THIS SECTION MUST:

38 1. BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A
39 DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE INDIVIDUAL.

40 2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PRESCRIBED IN
41 PARAGRAPH 1 OF THIS SUBSECTION.

42 C. AN INDIVIDUAL WHO HAS MADE A REFUSAL MAY AMEND OR REVOKE THE
43 REFUSAL:

44 1. IN THE MANNER PRESCRIBED IN SUBSECTION A OF THIS SECTION FOR MAKING
45 A REFUSAL.

1 2. BY SUBSEQUENTLY MAKING AN ANATOMICAL GIFT PURSUANT TO SECTION
2 36-844 THAT IS INCONSISTENT WITH THE REFUSAL.

3 3. BY DESTROYING OR CANCELING THE RECORD EVIDENCING THE REFUSAL, OR
4 THE PORTION OF THE RECORD USED TO MAKE THE REFUSAL, WITH THE INTENT TO REVOKE
5 THE REFUSAL.

6 D. EXCEPT AS OTHERWISE PRESCRIBED IN SECTION 36-847, SUBSECTION H, IN
7 THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE INDIVIDUAL SET FORTH IN
8 THE REFUSAL, AN INDIVIDUAL'S UNREVOKED REFUSAL TO MAKE AN ANATOMICAL GIFT OF
9 THE INDIVIDUAL'S BODY OR PART BARS ALL OTHER PERSONS FROM MAKING AN
10 ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART.

11 36-847. Preclusive effect of anatomical gift, amendment or
12 revocation

13 A. EXCEPT AS OTHERWISE PRESCRIBED IN SUBSECTIONS G AND H OF THIS
14 SECTION AND SUBJECT TO THE REQUIREMENTS OF SUBSECTION F OF THIS SECTION, IN
15 THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR, A PERSON OTHER
16 THAN THE DONOR IS BARRED FROM MAKING, AMENDING OR REVOKING AN ANATOMICAL GIFT
17 IF THE DONOR MADE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR AN
18 AMENDMENT TO AN ANATOMICAL GIFT PURSUANT TO SECTION 36-845.

19 B. A DONOR'S REVOCATION OF AN ANATOMICAL GIFT PURSUANT TO SECTION
20 36-845 IS NOT A REFUSAL AND DOES NOT BAR ANOTHER PERSON SPECIFIED IN SECTION
21 36-843 OR 36-848 FROM MAKING AN ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR
22 36-849.

23 C. IF A PERSON OTHER THAN THE DONOR MAKES AN UNREVOKED ANATOMICAL GIFT
24 PURSUANT TO SECTION 36-844 OR AN AMENDMENT TO AN ANATOMICAL GIFT PURSUANT TO
25 SECTION 36-845, ANOTHER PERSON MAY NOT MAKE, AMEND OR REVOKE THE GIFT
26 PURSUANT TO SECTION 36-849.

27 D. A REVOCATION OF AN ANATOMICAL GIFT PURSUANT TO SECTION 36-845 BY A
28 PERSON OTHER THAN THE DONOR DOES NOT BAR ANOTHER PERSON FROM MAKING AN
29 ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR 36-849.

30 E. IN THE ABSENCE OF AN EXPRESS CONTRARY INDICATION BY THE DONOR OR
31 OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION
32 36-843, AN ANATOMICAL GIFT OF A PART IS NEITHER A REFUSAL TO GIVE ANOTHER
33 PART NOR A LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF ANOTHER PART AT
34 A LATER TIME BY THE DONOR OR ANOTHER PERSON.

35 F. IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR
36 OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION
37 36-843, AN ANATOMICAL GIFT OF A PART FOR ONE OR MORE OF THE PURPOSES
38 DESCRIBED IN SECTION 36-843 IS NOT A LIMITATION ON THE MAKING OF AN
39 ANATOMICAL GIFT OF THE PART FOR ANY OF THE OTHER PURPOSES BY THE DONOR OR ANY
40 OTHER PERSON PURSUANT TO SECTION 36-844 OR 36-849.

41 G. IF A DONOR WHO IS AN UNEMANCIPATED MINOR DIES, A PARENT OF THE
42 DONOR WHO IS REASONABLY AVAILABLE MAY REVOKE OR AMEND AN ANATOMICAL GIFT.

43 H. IF AN UNEMANCIPATED MINOR WHO SIGNED A REFUSAL DIES, A PARENT OF
44 THE MINOR WHO IS REASONABLY AVAILABLE MAY REVOKE THE MINOR'S REFUSAL.

1 36-848. Who may make anatomical gift of decedent's body or part

2 A. SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS B AND C OF THIS SECTION,
3 AND UNLESS BARRED PURSUANT TO SECTION 36-846 OR 36-847, AN ANATOMICAL GIFT
4 FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION MAY BE MADE BY ANY MEMBER
5 OF THE FOLLOWING CLASSES OF PERSONS WHO IS REASONABLY AVAILABLE, IN THE ORDER
6 OF PRIORITY LISTED:

7 1. AN AGENT OF THE DECEDENT AT THE TIME OF DEATH WHO COULD HAVE MADE
8 AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 IMMEDIATELY BEFORE THE
9 DECEDENT'S DEATH.

10 2. THE DECEDENT'S SPOUSE.

11 3. THE DECEDENT'S ADULT CHILDREN.

12 4. THE DECEDENT'S PARENTS.

13 5. THE DECEDENT'S ADULT SIBLINGS.

14 6. THE DECEDENT'S ADULT GRANDCHILDREN.

15 7. THE DECEDENT'S GRANDPARENTS.

16 8. AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE DECEDENT.

17 9. THE PERSONS WHO WERE ACTING AS THE GUARDIANS OF THE PERSON OF THE
18 DECEDENT AT THE TIME OF DEATH.

19 10. ANY OTHER PERSON WHO HAS THE AUTHORITY TO DISPOSE OF THE DECEDENT'S
20 BODY.

21 B. IF THERE IS MORE THAN ONE MEMBER OF A CLASS THAT IS LISTED IN
22 SUBSECTION A, PARAGRAPH 1, 3, 4, 5, 6, 7 OR 9 OF THIS SECTION WHO IS ENTITLED
23 TO MAKE AN ANATOMICAL GIFT, AN ANATOMICAL GIFT MAY BE MADE BY A MEMBER OF THE
24 CLASS UNLESS THAT MEMBER OR A PERSON TO WHICH THE GIFT MAY PASS PURSUANT TO
25 SECTION 36-850 KNOWS OF AN OBJECTION BY ANOTHER MEMBER OF THE CLASS. IF AN
26 OBJECTION IS KNOWN, THE GIFT MAY BE MADE ONLY BY A MAJORITY OF THE MEMBERS OF
27 THE CLASS WHO ARE REASONABLY AVAILABLE.

28 C. A PERSON MAY NOT MAKE AN ANATOMICAL GIFT IF, AT THE TIME OF THE
29 DECEDENT'S DEATH, A PERSON IN A PRIOR CLASS PURSUANT TO SUBSECTION A OF THIS
30 SECTION IS REASONABLY AVAILABLE TO MAKE OR TO OBJECT TO THE MAKING OF AN
31 ANATOMICAL GIFT.

32 36-849. Manner of making, amending or revoking anatomical gift
33 of decedent's body or part

34 A. A PERSON WHO IS AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO
35 SECTION 36-848 MAY MAKE AN ANATOMICAL GIFT BY A DOCUMENT OF GIFT SIGNED BY
36 THE PERSON MAKING THE GIFT OR BY THAT PERSON'S ORAL COMMUNICATION THAT IS
37 ELECTRONICALLY RECORDED OR THAT IS CONTEMPORANEOUSLY REDUCED TO A RECORD AND
38 THAT IS SIGNED BY THE INDIVIDUAL RECEIVING THE ORAL COMMUNICATION.

39 B. SUBJECT TO THE REQUIREMENTS OF SUBSECTION C OF THIS SECTION, AN
40 ANATOMICAL GIFT BY A PERSON WHO IS AUTHORIZED PURSUANT TO SECTION 36-848 MAY
41 BE AMENDED OR REVOKED ORALLY OR IN A RECORD BY ANY MEMBER OF A PRIOR CLASS
42 WHO IS REASONABLY AVAILABLE. IF MORE THAN ONE MEMBER OF THE PRIOR CLASS IS
43 REASONABLY AVAILABLE, THE GIFT MADE BY A PERSON AUTHORIZED PURSUANT TO
44 SECTION 36-848 MAY BE EITHER:

1 1. AMENDED ONLY IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS
2 AGREE TO THE AMENDING OF THE GIFT.

3 2. REVOKED ONLY IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS
4 AGREE TO THE REVOKING OF THE GIFT OR IF THEY ARE EQUALLY DIVIDED AS TO
5 WHETHER TO REVOKE THE GIFT.

6 C. A REVOCATION PURSUANT TO SUBSECTION B OF THIS SECTION IS EFFECTIVE
7 ONLY IF, BEFORE AN INCISION HAS BEEN MADE TO REMOVE A PART FROM THE DONOR'S
8 BODY OR BEFORE INVASIVE PROCEDURES HAVE BEGUN TO PREPARE THE RECIPIENT, THE
9 PROCUREMENT ORGANIZATION, TRANSPLANT HOSPITAL, PHYSICIAN OR TECHNICIAN KNOWS
10 OF THE REVOCATION.

11 36-850. Persons who may receive anatomical gifts; purpose of
12 anatomical gift

13 A. AN ANATOMICAL GIFT MAY BE MADE TO THE FOLLOWING NAMED IN THE
14 DOCUMENT OF GIFT:

15 1. A HOSPITAL, ACCREDITED MEDICAL SCHOOL, DENTAL SCHOOL, COLLEGE,
16 UNIVERSITY, ORGAN PROCUREMENT ORGANIZATION OR ANY OTHER APPROPRIATE PERSON,
17 FOR RESEARCH OR EDUCATION.

18 2. SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION, AN
19 INDIVIDUAL DESIGNATED BY THE PERSON MAKING THE ANATOMICAL GIFT IF THE
20 INDIVIDUAL IS THE RECIPIENT OF THE PART.

21 3. AN EYE BANK OR A TISSUE BANK.

22 B. IF AN ANATOMICAL GIFT TO AN INDIVIDUAL PURSUANT TO SUBSECTION A,
23 PARAGRAPH 2 OF THIS SECTION CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE
24 PART PASSES PURSUANT TO SUBSECTION G OF THIS SECTION IN THE ABSENCE OF AN
25 EXPRESS CONTRARY INDICATION BY THE PERSON MAKING THE ANATOMICAL GIFT.

26 C. IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS OR OF ALL PARTS
27 IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN
28 SUBSECTION A OF THIS SECTION BUT THAT IDENTIFIES THE PURPOSE FOR WHICH AN
29 ANATOMICAL GIFT MAY BE USED, THE GIFT PASSES:

30 1. TO THE APPROPRIATE EYE BANK IF THE PART IS AN EYE AND THE GIFT IS
31 FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY.

32 2. TO THE APPROPRIATE TISSUE BANK IF THE PART IS TISSUE AND THE GIFT
33 IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY.

34 3. TO THE APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF
35 THE ORGAN IF THE PART IS AN ORGAN AND THE GIFT IS FOR THE PURPOSE OF
36 TRANSPLANTATION OR THERAPY.

37 4. TO THE APPROPRIATE PROCUREMENT ORGANIZATION IF THE PART IS AN
38 ORGAN, AN EYE OR TISSUE AND THE GIFT IS FOR THE PURPOSE OF RESEARCH OR
39 EDUCATION.

40 D. FOR THE PURPOSES OF SUBSECTION C OF THIS SECTION, IF THERE IS MORE
41 THAN ONE PURPOSE OF AN ANATOMICAL GIFT STATED IN THE DOCUMENT OF GIFT BUT THE
42 PURPOSES ARE NOT STATED IN ANY PRIORITY, THE GIFT MUST BE USED FOR
43 TRANSPLANTATION OR THERAPY, IF SUITABLE. IF THE GIFT CANNOT BE USED FOR
44 TRANSPLANTATION OR THERAPY, THE GIFT MAY BE USED FOR RESEARCH OR EDUCATION.

1 E. IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS IS MADE IN A
2 DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN SUBSECTION A OF
3 THIS SECTION AND DOES NOT IDENTIFY THE PURPOSE OF THE GIFT, THE GIFT MAY BE
4 USED ONLY FOR TRANSPLANTATION OR THERAPY AND THE GIFT PASSES PURSUANT TO
5 SUBSECTION G OF THIS SECTION.

6 F. IF A DOCUMENT OF GIFT SPECIFIES ONLY A GENERAL INTENT TO MAKE AN
7 ANATOMICAL GIFT BY WORDS SUCH AS "DONOR", "ORGAN DONOR" OR "BODY DONOR", OR
8 BY A SYMBOL OR STATEMENT OF SIMILAR IMPORT, THE GIFT MAY BE USED ONLY FOR
9 TRANSPLANTATION OR THERAPY AND THE GIFT PASSES PURSUANT TO SUBSECTION G OF
10 THIS SECTION.

11 G. FOR THE PURPOSES OF SUBSECTIONS B, E AND F OF THIS SECTION:

12 1. IF THE PART IS AN EYE, THE GIFT PASSES TO THE APPROPRIATE EYE BANK.

13 2. IF THE PART IS TISSUE, THE GIFT PASSES TO THE APPROPRIATE TISSUE
14 BANK.

15 3. IF THE PART IS AN ORGAN, THE GIFT PASSES TO THE APPROPRIATE ORGAN
16 PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.

17 H. AN ANATOMICAL GIFT OF AN ORGAN FOR TRANSPLANTATION OR THERAPY,
18 OTHER THAN AN ANATOMICAL GIFT PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS
19 SECTION, PASSES TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE
20 ORGAN.

21 I. IF AN ANATOMICAL GIFT DOES NOT PASS PURSUANT TO SUBSECTION A, B, C,
22 D, E, F, G OR H OF THIS SECTION OR THE DECEDENT'S BODY OR PART IS NOT USED
23 FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION, CUSTODY OF THE BODY OR
24 PART PASSES TO THE PERSON WHO IS UNDER AN OBLIGATION TO DISPOSE OF THE BODY
25 OR PART.

26 J. A PERSON MAY NOT ACCEPT AN ANATOMICAL GIFT IF THE PERSON KNOWS THAT
27 THE GIFT WAS NOT EFFECTIVELY MADE PURSUANT TO SECTION 36-844 OR 36-849 OR IF
28 THE PERSON KNOWS THAT THE DECEDENT MADE A REFUSAL PURSUANT TO SECTION 36-846
29 THAT WAS NOT REVOKED. FOR THE PURPOSES OF THIS SUBSECTION, IF A PERSON KNOWS
30 THAT AN ANATOMICAL GIFT WAS MADE IN A DOCUMENT OF GIFT, THE PERSON IS DEEMED
31 TO KNOW OF ANY AMENDMENT OR REVOCATION OF THE GIFT OR OF ANY REFUSAL TO MAKE
32 AN ANATOMICAL GIFT IN THE SAME DOCUMENT OF GIFT.

33 K. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION A, PARAGRAPH 2 OF THIS
34 SECTION, THIS ARTICLE DOES NOT AFFECT THE ALLOCATION OF ORGANS FOR
35 TRANSPLANTATION OR THERAPY.

36 36-851. Search and notification; immunity

37 A. THE FOLLOWING SHALL MAKE A REASONABLE SEARCH OF AN INDIVIDUAL WHOM
38 THE PERSON REASONABLY BELIEVES IS DEAD OR NEAR DEATH FOR A DOCUMENT OF GIFT
39 OR OTHER INFORMATION IDENTIFYING THE INDIVIDUAL AS A DONOR OR AS AN
40 INDIVIDUAL WHO MADE A REFUSAL:

41 1. A LAW ENFORCEMENT OFFICER, FIREFIGHTER, PARAMEDIC OR OTHER
42 EMERGENCY RESCUER FINDING THE INDIVIDUAL.

43 2. IF NO OTHER SOURCE OF THE INFORMATION IS IMMEDIATELY AVAILABLE, A
44 HOSPITAL, AS SOON AS PRACTICAL AFTER THE INDIVIDUAL'S ARRIVAL AT THE
45 HOSPITAL.

1 B. IF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT IS
2 LOCATED BY THE SEARCH REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 1 AND THE
3 INDIVIDUAL OR DECEASED INDIVIDUAL TO WHOM IT RELATES IS TAKEN TO A HOSPITAL,
4 THE PERSON RESPONSIBLE FOR CONDUCTING THE SEARCH SHALL SEND THE DOCUMENT OF
5 GIFT OR REFUSAL TO THE HOSPITAL.

6 C. A PERSON IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY FOR FAILING
7 TO DISCHARGE THE DUTIES IMPOSED BY THIS SECTION BUT MAY BE SUBJECT TO
8 ADMINISTRATIVE SANCTIONS.

9 36-852. Delivery of document of gift not required; right to
10 examine

11 A. A DOCUMENT OF GIFT NEED NOT BE DELIVERED DURING THE DONOR'S
12 LIFETIME TO BE EFFECTIVE.

13 B. ON OR AFTER AN INDIVIDUAL'S DEATH, A PERSON IN POSSESSION OF A
14 DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT WITH RESPECT TO THE
15 INDIVIDUAL SHALL ALLOW EXAMINATION AND COPYING OF THE DOCUMENT OF GIFT OR
16 REFUSAL BY A PERSON AUTHORIZED TO MAKE OR OBJECT TO THE MAKING OF AN
17 ANATOMICAL GIFT WITH RESPECT TO THE INDIVIDUAL OR BY A PERSON TO WHICH THE
18 GIFT COULD PASS PURSUANT TO SECTION 36-850.

19 36-853. Rights and duties of procurement organizations and
20 others

21 A. IF A HOSPITAL REFERS AN INDIVIDUAL AT OR NEAR DEATH TO A
22 PROCUREMENT ORGANIZATION, THE ORGANIZATION SHALL MAKE A REASONABLE SEARCH OF
23 THE RECORDS OF THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION
24 AND ANY DONOR REGISTRY THAT IT KNOWS EXISTS FOR THE GEOGRAPHICAL AREA IN
25 WHICH THE INDIVIDUAL RESIDES TO DETERMINE IF THE INDIVIDUAL HAS MADE AN
26 ANATOMICAL GIFT.

27 B. A PROCUREMENT ORGANIZATION MUST BE ALLOWED REASONABLE ACCESS TO
28 INFORMATION IN THE RECORDS OF THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF
29 TRANSPORTATION TO DETERMINE IF AN INDIVIDUAL AT OR NEAR DEATH IS A DONOR.

30 C. IF A HOSPITAL REFERS AN INDIVIDUAL AT OR NEAR DEATH TO A
31 PROCUREMENT ORGANIZATION, THE ORGANIZATION MAY CONDUCT ANY REASONABLE
32 EXAMINATION NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART THAT IS OR
33 COULD BE THE SUBJECT OF AN ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY,
34 RESEARCH OR EDUCATION FROM A DONOR OR A PROSPECTIVE DONOR. DURING THE
35 EXAMINATION PERIOD, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF
36 THE PART MAY NOT BE WITHDRAWN UNLESS THE HOSPITAL OR PROCUREMENT ORGANIZATION
37 KNOWS THAT THE INDIVIDUAL EXPRESSED A CONTRARY INTENT.

38 D. UNLESS OTHERWISE PROHIBITED BY LAW, AT ANY TIME AFTER A DONOR'S
39 DEATH, THE PERSON TO WHICH A PART PASSES PURSUANT TO SECTION 36-850 MAY
40 CONDUCT ANY REASONABLE EXAMINATION NECESSARY TO ENSURE THE MEDICAL
41 SUITABILITY OF THE BODY OR PART FOR ITS INTENDED PURPOSE.

42 E. UNLESS OTHERWISE PROHIBITED BY LAW, AN EXAMINATION PURSUANT TO
43 SUBSECTION C OR D OF THIS SECTION MAY INCLUDE AN EXAMINATION OF ALL MEDICAL
44 AND DENTAL RECORDS OF THE DONOR OR PROSPECTIVE DONOR.

F. ON THE DEATH OF A MINOR WHO WAS A DONOR OR WHO HAD SIGNED A REFUSAL, UNLESS A PROCUREMENT ORGANIZATION KNOWS THE MINOR IS EMANCIPATED, THE PROCUREMENT ORGANIZATION SHALL CONDUCT A REASONABLE SEARCH FOR THE PARENTS OF THE MINOR AND PROVIDE THE PARENTS WITH AN OPPORTUNITY TO REVOKE OR AMEND THE ANATOMICAL GIFT OR REVOKE THE REFUSAL.

G. ON REFERRAL BY A HOSPITAL PURSUANT TO SUBSECTION A OF THIS SECTION, A PROCUREMENT ORGANIZATION MUST MAKE A REASONABLE SEARCH FOR ANY PERSON LISTED IN SECTION 36-848 WHO HAS PRIORITY TO MAKE AN ANATOMICAL GIFT ON BEHALF OF A PROSPECTIVE DONOR. IF A PROCUREMENT ORGANIZATION RECEIVES INFORMATION THAT AN ANATOMICAL GIFT TO ANY OTHER PERSON WAS MADE, AMENDED OR REVOKED, IT SHALL PROMPTLY ADVISE THE OTHER PERSON OF ALL RELEVANT INFORMATION.

H. SUBJECT TO THE REQUIREMENTS OF SECTION 36-850, SUBSECTION I AND SECTION 36-862, THE RIGHTS OF THE PERSON TO WHICH A PART PASSES PURSUANT TO SECTION 36-850 ARE SUPERIOR TO THE RIGHTS OF ALL OTHERS WITH RESPECT TO THE PART. THE PERSON MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN PART. SUBJECT TO THE TERMS OF THE DOCUMENT OF GIFT AND THIS ARTICLE, A PERSON WHO ACCEPTS AN ANATOMICAL GIFT OF AN ENTIRE BODY MAY ALLOW EMBALMING, BURIAL OR CREMATION AND USE OF REMAINS IN A FUNERAL SERVICE. IF THE GIFT IS OF A PART, THE PERSON TO WHICH THE PART PASSES PURSUANT TO SECTION 36-850, ON THE DEATH OF THE DONOR AND BEFORE EMBALMING, BURIAL OR CREMATION, SHALL CAUSE THE PART TO BE REMOVED WITHOUT UNNECESSARY MUTILATION.

I. THE PHYSICIAN WHO ATTENDS THE DECEDENT AT DEATH AND THE PHYSICIAN WHO DETERMINES THE TIME OF THE DECEDENT'S DEATH MAY NOT PARTICIPATE IN THE PROCEDURES FOR REMOVING OR TRANSPLANTING A PART FROM THE DECEDENT.

J. A PHYSICIAN OR TECHNICIAN MAY REMOVE A DONATED PART FROM THE BODY OF A DONOR THAT THE PHYSICIAN OR TECHNICIAN IS QUALIFIED TO REMOVE.

36-854. Coordination of procurement and use

EACH HOSPITAL IN THIS STATE SHALL ENTER INTO AGREEMENTS OR AFFILIATIONS WITH PROCUREMENT ORGANIZATIONS FOR COORDINATION OF PROCUREMENT AND USE OF ANATOMICAL GIFTS.

36-855. Sale or purchase of parts; classification

A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B, A PERSON WHO FOR VALUABLE CONSIDERATION KNOWINGLY PURCHASES OR SELLS A PART FOR TRANSPLANTATION OR THERAPY, IF REMOVAL OF A PART FROM AN INDIVIDUAL IS INTENDED TO OCCUR AFTER THE INDIVIDUAL'S DEATH, IS GUILTY OF A CLASS 6 FELONY.

B. THIS SECTION DOES NOT PREVENT A PERSON FROM CHARGING A REASONABLE AMOUNT FOR THE REMOVAL, PROCESSING, PRESERVATION, QUALITY CONTROL, STORAGE, TRANSPORTATION, IMPLANTATION OR DISPOSAL OF A PART.

36-856. Prohibited acts; classification

A PERSON WHO, IN ORDER TO OBTAIN A FINANCIAL GAIN, INTENTIONALLY FALSIFIES, FORGES, CONCEALS, DEFACES OR OBLITERATES A DOCUMENT OF GIFT, AN AMENDMENT OR REVOCATION OF A DOCUMENT OF GIFT OR A REFUSAL OF GIFT IS GUILTY OF A CLASS 6 FELONY.

1 36-857. Immunity

2 A. A PERSON WHO ACTS PURSUANT TO THIS ARTICLE OR THE APPLICABLE
3 ANATOMICAL GIFT LAW OF ANOTHER STATE, OR WHO ATTEMPTS IN GOOD FAITH TO DO SO,
4 IS NOT SUBJECT TO CIVIL LIABILITY, CRIMINAL PROSECUTION OR ADMINISTRATIVE
5 PROCEEDING.

6 B. A PERSON WHO MAKES AN ANATOMICAL GIFT AND THE DONOR'S ESTATE ARE
7 NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY FOR ANY INJURY OR DAMAGE THAT
8 RESULTS FROM THE MAKING OR USE OF THE GIFT.

9 C. IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE, AMENDED OR
10 REVOKED PURSUANT TO THIS ARTICLE, A PERSON MAY RELY ON REPRESENTATIONS OF AN
11 INDIVIDUAL LISTED PURSUANT TO SECTION 36-848, SUBSECTION A, PARAGRAPH 2, 3,
12 4, 5, 6, 7 OR 8 RELATING TO THE INDIVIDUAL'S RELATIONSHIP TO THE DONOR OR
13 PROSPECTIVE DONOR UNLESS THE PERSON KNOWS THAT THE REPRESENTATION IS UNTRUE.

14 36-858. Choice of law; presumption of validity

15 A. A DOCUMENT OF GIFT IS VALID IF EXECUTED IN ACCORDANCE WITH:

16 1. THIS ARTICLE.

17 2. THE LAWS OF THE STATE OR COUNTRY WHERE IT WAS EXECUTED.

18 3. THE LAWS OF THE STATE OR COUNTRY WHERE THE PERSON MAKING THE
19 ANATOMICAL GIFT WAS DOMICILED, HAS A PLACE OF RESIDENCE OR WAS A NATIONAL AT
20 THE TIME THE DOCUMENT OF GIFT WAS EXECUTED.

21 B. IF A DOCUMENT OF GIFT IS VALID UNDER THIS SECTION, THE LAWS OF THIS
22 STATE GOVERN THE INTERPRETATION OF THE DOCUMENT OF GIFT.

23 C. A PERSON MAY PRESUME THAT A DOCUMENT OF GIFT OR AMENDMENT OF AN
24 ANATOMICAL GIFT IS VALID UNLESS THAT PERSON KNOWS THAT IT WAS NOT VALIDLY
25 EXECUTED OR WAS REVOKED.

26 36-859. Donor registry

27 A. AN ORGAN PROCUREMENT ORGANIZATION SHALL ESTABLISH OR CONTRACT FOR
28 THE ESTABLISHMENT OF A DONOR REGISTRY IN THIS STATE.

29 B. THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION
30 SHALL COOPERATE WITH A PERSON THAT ADMINISTERS A DONOR REGISTRY TO TRANSFER
31 TO THE DONOR REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR'S MAKING OF,
32 AMENDMENT TO OR REVOCATION OF AN ANATOMICAL GIFT.

33 C. A DONOR REGISTRY MUST:

34 1. ALLOW A DONOR OR OTHER PERSON AUTHORIZED PURSUANT TO SECTION 36-843
35 TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE DONOR HAS
36 MADE, AMENDED OR REVOKED AN ANATOMICAL GIFT.

37 2. BE ACCESSIBLE TO A PROCUREMENT ORGANIZATION TO ALLOW IT TO OBTAIN
38 RELEVANT INFORMATION ON THE DONOR REGISTRY TO DETERMINE, AT OR NEAR DEATH OF
39 THE DONOR OR A PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS
40 MADE, AMENDED OR REVOKED AN ANATOMICAL GIFT.

41 3. BE ACCESSIBLE SEVEN DAYS A WEEK ON A TWENTY-FOUR HOUR BASIS FOR
42 PURPOSES OF PARAGRAPHS 1 AND 2.

43 D. PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY ABOUT A
44 DONOR OR PROSPECTIVE DONOR MAY NOT BE USED OR DISCLOSED WITHOUT THE EXPRESS
45 CONSENT OF THE DONOR, PROSPECTIVE DONOR OR PERSON WHO MADE THE ANATOMICAL

1 GIFT FOR ANY PURPOSE OTHER THAN TO DETERMINE, AT OR NEAR DEATH OF THE DONOR
2 OR PROSPECTIVE DONOR, IF THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED OR
3 REVOKED AN ANATOMICAL GIFT.

4 E. THIS SECTION DOES NOT PROHIBIT ANY PERSON FROM ESTABLISHING OR
5 MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT
6 WITH THIS STATE. ANY SUCH REGISTRY MUST COMPLY WITH THE REQUIREMENTS OF
7 SUBSECTIONS C AND D OF THIS SECTION.

8 36-860. Effect of anatomical gift on advance health care
9 directive; definitions

10 A. IF A PROSPECTIVE DONOR HAS A DECLARATION OR ADVANCE HEALTH CARE
11 DIRECTIVE, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF AN ORGAN
12 FOR TRANSPLANTATION OR THERAPY MAY NOT BE WITHHELD OR WITHDRAWN FROM THE
13 PROSPECTIVE DONOR UNLESS THE DECLARATION EXPRESSLY PROVIDES TO THE CONTRARY.

14 B. FOR THE PURPOSES OF THIS SECTION:

15 1. "ADVANCE HEALTH CARE DIRECTIVE" MEANS A POWER OF ATTORNEY FOR
16 HEALTH CARE OR A RECORD SIGNED BY A PROSPECTIVE DONOR CONTAINING THE
17 PROSPECTIVE DONOR'S DIRECTION CONCERNING A HEALTH CARE DECISION FOR THE
18 PROSPECTIVE DONOR.

19 2. "DECLARATION" MEANS A RECORD SIGNED BY A PROSPECTIVE DONOR
20 SPECIFYING THE CIRCUMSTANCES UNDER WHICH A LIFE SUPPORT SYSTEM MAY BE
21 WITHHELD OR WITHDRAWN FROM THE PROSPECTIVE DONOR.

22 3. "HEALTH CARE DECISION" MEANS ANY DECISION MADE REGARDING THE HEALTH
23 CARE OF THE PROSPECTIVE DONOR.

24 36-861. Cooperation between county medical examiner and
25 procurement organization

26 A. EACH COUNTY MEDICAL EXAMINER SHALL COOPERATE WITH PROCUREMENT
27 ORGANIZATIONS TO MAXIMIZE THE OPPORTUNITY TO RECOVER ANATOMICAL GIFTS FOR THE
28 PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION.

29 B. IF A COUNTY MEDICAL EXAMINER RECEIVES NOTICE FROM A PROCUREMENT
30 ORGANIZATION THAT AN ANATOMICAL GIFT MIGHT BE AVAILABLE OR WAS MADE WITH
31 RESPECT TO A DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE MEDICAL
32 EXAMINER AND A POSTMORTEM EXAMINATION WILL BE PERFORMED, UNLESS THE MEDICAL
33 EXAMINER DENIES RECOVERY PURSUANT TO SECTION 36-862, THE COUNTY MEDICAL
34 EXAMINER OR THE MEDICAL EXAMINER'S DESIGNEE SHALL CONDUCT A POSTMORTEM
35 EXAMINATION OF THE BODY OR THE PART IN A MANNER AND WITHIN A PERIOD
36 COMPATIBLE WITH ITS PRESERVATION FOR THE PURPOSES OF THE GIFT.

37 C. A PART MAY NOT BE REMOVED FROM THE BODY OF A DECEDENT UNDER THE
38 JURISDICTION OF THE COUNTY MEDICAL EXAMINER FOR TRANSPLANTATION, THERAPY,
39 RESEARCH OR EDUCATION UNLESS THE PART IS THE SUBJECT OF AN ANATOMICAL GIFT.
40 THE BODY OF A DECEDENT UNDER THE JURISDICTION OF THE MEDICAL EXAMINER MAY NOT
41 BE DELIVERED TO A PERSON FOR RESEARCH OR EDUCATION UNLESS THE BODY IS THE
42 SUBJECT OF AN ANATOMICAL GIFT. THIS SUBSECTION DOES NOT PREVENT A COUNTY
43 MEDICAL EXAMINER FROM PERFORMING THE MEDICOLEGAL INVESTIGATION ON THE BODY OR
44 PARTS OF A DECEDENT UNDER THE JURISDICTION OF THE MEDICAL EXAMINER.

36-862. Facilitation of anatomical gift from decedent whose
body is under jurisdiction of county medical examiner

A. ON REQUEST OF A PROCUREMENT ORGANIZATION, THE COUNTY MEDICAL EXAMINER SHALL RELEASE TO THE PROCUREMENT ORGANIZATION THE NAME, CONTACT INFORMATION AND AVAILABLE MEDICAL AND SOCIAL HISTORY OF A DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE COUNTY MEDICAL EXAMINER. IF THE DECEDENT'S BODY OR PART IS MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION, THE COUNTY MEDICAL EXAMINER SHALL RELEASE POSTMORTEM EXAMINATION RESULTS TO THE PROCUREMENT ORGANIZATION. THE PROCUREMENT ORGANIZATION MAY MAKE A SUBSEQUENT DISCLOSURE OF THE POSTMORTEM EXAMINATION RESULTS OR OTHER INFORMATION RECEIVED FROM THE COUNTY MEDICAL EXAMINER ONLY IF RELEVANT TO TRANSPLANTATION OR THERAPY.

B. THE COUNTY MEDICAL EXAMINER MAY CONDUCT A MEDICOLEGAL EXAMINATION BY REVIEWING ALL MEDICAL RECORDS, LABORATORY TEST RESULTS, X-RAYS, OTHER DIAGNOSTIC RESULTS AND OTHER INFORMATION THAT ANY PERSON POSSESSES ABOUT A DONOR OR PROSPECTIVE DONOR WHOSE BODY IS UNDER THE JURISDICTION OF THE COUNTY MEDICAL EXAMINER AND THAT THE MEDICAL EXAMINER DETERMINES MAY BE RELEVANT TO THE INVESTIGATION.

C. A PERSON WHO HAS ANY INFORMATION REQUESTED BY THE COUNTY MEDICAL EXAMINER PURSUANT TO SUBSECTION B SHALL PROVIDE THAT INFORMATION AS EXPEDITIOUSLY AS POSSIBLE TO ALLOW THE MEDICAL EXAMINER TO CONDUCT THE MEDICOLEGAL INVESTIGATION WITHIN A PERIOD COMPATIBLE WITH THE PRESERVATION OF PARTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION.

D. IF AN ANATOMICAL GIFT HAS BEEN OR MIGHT BE MADE OF A PART OF A DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE COUNTY MEDICAL EXAMINER AND A POSTMORTEM EXAMINATION IS NOT REQUIRED, OR THE MEDICAL EXAMINER DETERMINES THAT A POSTMORTEM EXAMINATION IS REQUIRED BUT THAT THE RECOVERY OF THE PART THAT IS THE SUBJECT OF AN ANATOMICAL GIFT WILL NOT INTERFERE WITH THE EXAMINATION, THE MEDICAL EXAMINER AND PROCUREMENT ORGANIZATION SHALL COOPERATE IN THE TIMELY REMOVAL OF THE PART FROM THE DECEDENT FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION.

E. IF AN ANATOMICAL GIFT OF A PART FROM THE DECEDENT UNDER THE JURISDICTION OF THE COUNTY MEDICAL EXAMINER HAS BEEN OR MIGHT BE MADE, BUT THE MEDICAL EXAMINER INITIALLY BELIEVES THAT THE RECOVERY OF THE PART COULD INTERFERE WITH THE POSTMORTEM INVESTIGATION INTO THE DECEDENT'S CAUSE OR MANNER OF DEATH, THE MEDICAL EXAMINER SHALL CONSULT WITH THE PROCUREMENT ORGANIZATION OR PHYSICIAN OR TECHNICIAN DESIGNATED BY THE PROCUREMENT ORGANIZATION ABOUT THE PROPOSED RECOVERY. AFTER CONSULTATION, THE COUNTY MEDICAL EXAMINER MAY ALLOW THE RECOVERY.

F. FOLLOWING THE CONSULTATION PURSUANT TO SUBSECTION E, IN THE ABSENCE OF MUTUALLY AGREED-ON PROTOCOLS TO RESOLVE CONFLICT BETWEEN THE COUNTY MEDICAL EXAMINER AND THE PROCUREMENT ORGANIZATION, IF THE MEDICAL EXAMINER INTENDS TO DENY RECOVERY, THE MEDICAL EXAMINER OR DESIGNEE, AT THE REQUEST OF THE PROCUREMENT ORGANIZATION, SHALL ATTEND THE REMOVAL PROCEDURE FOR THE PART BEFORE MAKING A FINAL DETERMINATION NOT TO ALLOW THE PROCUREMENT ORGANIZATION

1 TO RECOVER THE PART. DURING THE REMOVAL PROCEDURE, THE MEDICAL EXAMINER OR
2 DESIGNEE MAY ALLOW RECOVERY BY THE PROCUREMENT ORGANIZATION TO PROCEED, OR,
3 IF THE MEDICAL EXAMINER OR DESIGNEE REASONABLY BELIEVES THAT THE PART MAY BE
4 INVOLVED IN DETERMINING THE DECEDENT'S CAUSE OR MANNER OF DEATH, DENY
5 RECOVERY BY THE PROCUREMENT ORGANIZATION.

6 G. IF THE COUNTY MEDICAL EXAMINER OR THE MEDICAL EXAMINER'S DESIGNEE
7 DENIES RECOVERY PURSUANT TO SUBSECTION F, THE MEDICAL EXAMINER OR THE MEDICAL
8 EXAMINER'S DESIGNEE SHALL:

9 1. EXPLAIN IN A RECORD THE SPECIFIC REASONS FOR NOT ALLOWING RECOVERY
10 OF THE PART.

11 2. INCLUDE THE SPECIFIC REASONS IN THE RECORDS OF THE MEDICAL
12 EXAMINER.

13 3. PROVIDE A RECORD WITH THE SPECIFIC REASONS TO THE PROCUREMENT
14 ORGANIZATION.

15 H. IF THE COUNTY MEDICAL EXAMINER OR THE EXAMINER'S DESIGNEE ALLOWS
16 RECOVERY OF A PART PURSUANT TO SUBSECTION D, E OR F, THE PROCUREMENT
17 ORGANIZATION ON REQUEST SHALL CAUSE THE PHYSICIAN OR TECHNICIAN WHO REMOVES
18 THE PART TO PROVIDE THE MEDICAL EXAMINER WITH A RECORD DESCRIBING THE
19 CONDITION OF THE PART, A BIOPSY, A PHOTOGRAPH AND ANY OTHER INFORMATION AND
20 OBSERVATIONS THAT WOULD ASSIST IN THE POSTMORTEM EXAMINATION.

21 I. IF A COUNTY MEDICAL EXAMINER OR THE EXAMINER'S DESIGNEE IS REQUIRED
22 TO BE PRESENT AT A REMOVAL PROCEDURE PURSUANT TO SUBSECTION F, ON REQUEST THE
23 PROCUREMENT ORGANIZATION REQUESTING THE RECOVERY OF THE PART SHALL REIMBURSE
24 THE MEDICAL EXAMINER OR THE MEDICAL EXAMINER'S DESIGNEE FOR THE ADDITIONAL
25 COSTS INCURRED IN COMPLYING WITH THE REQUIREMENTS OF SUBSECTION F.

26 36-863. Uniformity of application and construction

27 IN APPLYING AND CONSTRUING THIS ARTICLE, CONSIDERATION MUST BE GIVEN TO
28 THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER
29 AMONG STATES THAT ENACT IT.

30 36-864. Relation to electronic signatures in global and
31 national commerce act

32 THIS ACT MODIFIES, LIMITS AND SUPERSEDES THE ELECTRONIC SIGNATURES IN
33 GLOBAL AND NATIONAL COMMERCE ACT, BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE
34 SECTION 101(a) OF THAT ACT (15 UNITED STATES CODE SECTION 7001) OR AUTHORIZE
35 ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(b) OF THAT
36 ACT (15 UNITED STATES CODE SECTION 7003(b)).

37 Sec. 4. Short title

38 Title 36, chapter 7, article 3, Arizona Revised Statutes, as added by
39 this act, may be cited as the "Revised Uniform Anatomical Gift Act".